

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

JAMES GUY ARNOLD,

Petitioner,

v.

**CIVIL ACTION NO. 3:01CV11
(BROADWATER)**

**C. MARK HOFFE, Probation Officer;
and the ATTORNEY GENERAL OF
THE STATE OF WEST VIRGINIA;**

Respondents.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated January 11, 2006 (**Docket # 41**). Objections were due within ten (10) days of receipt of the Report, which was filed January 11, 2006. To date, the Court has not received any objections. Upon review of the Report, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court further **ORDERS**

- 1) Respondents' Motion to Dismiss as Untimely, or in the Alternative, for Failure to Exhaust State Court Remedies (**Docket # 35**) is **GRANTED** in that
- 2) petitioner's petition is **DENIED and DISMISSED WITHOUT PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation.;
- 3) petitioner's Motion for Documents (**Docket # 26**) is **DENIED** as moot; and
- 4) this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 1st day of February 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE